

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT. (LABOUR)

Labour Dispute :—Industrial Dispute between the Workmen and the Management of M/s B. L. S. (P) Ltd., Chamarajanagar.

Award of the Labour Court, Bangalore—Published.

Read the following papers :

(1) Letter No. 824/67-68 dated 21th October 1967 from Shri P. T. Kadkol, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT,
BANGALORE.

Dated this 24th day of October 1967.

Present :

Sri P. T. Kadkol, B.Sc., LL.B., ... *Presiding Officer.*

Reference No. 77 of 1965.

Workmen represented by the Secretary, Mysore Division
Motor Workers' Association, Old Post Office Road, Chamarajanagar,
Mysore District. ... *I Party.*

Vs.

The Management of M/s B. L. S. (P) Ltd., Chamarajanagar.
.. *II Party.*

Reference:

Government Order No. LMA 502 LLD 65, dated 15th
December 1965.

AWARD

The Government of Mysore being of opinion that an industrial dispute exists between the workmen and the management of M/s B. L. S. (P) Ltd., Chamarajanagar, have referred

it to this Court for adjudication under Section 10 (1) (c) of the Industrial Disputes Act, 1947, by their Order No. LMA 502 LLD 65, dated 15th December 1965, setting out the following points of dispute for adjudication:—

“Is the worker Sri Govindaiah, Driver of M/s. B.L.S. (Private) Ltd., Chamarajanagar, entitled for reinstatement with back wages and continuity of service with arrears of his salary for the months of October and November 1963; if not to what other relief he is entitled to?”

2. The cause of the aggrieved workman has been sponsored by The Mysore Division Motor Workers' Association, Chamarajanagar. This Union as representing the Workmen is the First Party and the Management of M/s. B.L.S. (Private) Ltd., Chamarajanagar, is the Second Party in this proceeding. The Secretary of the Union, Mr. Vishakantiah, has appeared for the First Party. Mr. Stanley Victor has appeared for the Management of the Second Party.

3. The dispute relates to workman Govindaiah. He was working as a Motor Vehicle Driver under the Second Party, which is an Establishment running Bus Transport Service. The Second Party has its Head Office at Coimbatore and a branch office at Chamarajanagar. Govindaiah was working under the Branch Office at Chamarajanagar. Admittedly, he was in service for more than 3 to 4 years.

4. The grievance made out by the Union, in the statement of claims dated 25th January 1966, is that the Management has unlawfully and illegally terminated the service of Govindaiah with effect from 7th December 1963. It has prayed that the Management be directed to reinstate him in service with full back wages and continuity of service.

5. In the Statement of objections dated 23rd January 1967, the Management has contended that Govindaiah was extremely irregular in his attendance and used to remain absent for various days off and on, and finally, from 7th December 1963, stayed away from work. A notice was issued to him by the Management, but Govindaiah did not care even to send a reply thereto. The Management was, therefore, justified in assuming that he had

quitted the job, of his own accord. The Management has not terminated his services. Hence, Govindaiah is not entitled to any of the reliefs claimed by him and, therefore, the Reference deserves to be rejected etc,

6. On these pleadings, the following issues have been framed (*Vide* Order Sheet dated 27th February 1967) and set down for hearing :—

1. Does the First Party prove that the services of the aggrieved workman have been illegally terminated by the Management of the Second Party?
2. Does the Second Party prove that the aggrieved workman has absented himself and stayed away from work in spite of notice and hence is deemed to have given up his job voluntarily?
3. What Award?

Parties were asked to lead evidence on these issues. The Union has examined the aggrieved workman Govindaiah (W.W. 1) and produced five documents marked Exts. W. 1 to W 5. The Management has not led any oral evidence but has produced 14 documents marked Exts M. 1 to M 14 and one more document marked 'A' for identification. This is all the evidence. I now proceed to consider it.

7. There is no dispute about the fact that Govindaiah was in the employ of the Second Party and everything was moving smoothly till about the end of February 1963. The case of the Management is, that since March 1963, Govindaiah became irregular in attendance. According to it, Govindaiah worked as under :—

March 1963	...	He was on leave for 4 days and remained absent for the rest of the month.
April 1963	} ...	Remained absent on all days in these two months.
May 1963		
June 1963		Worked for 11 days and remained absent for the rest of the days.
July 1963	...	Worked full month.
Aug. 1963	...	Worked for 22 days and remained absent for the remaining days.

Oct. 1963 ... Worked for 16 days only.
 Nov. 1963 ... Absent for the entire month.
 Dec. 1963 ... Worked only for 6 days and then remained absent.

8. In support of this averment, the Management has produced the Wage Payment Sheets from February 1963 to December 1963. They are regular payment sheets kept in the ordinary course of business. The workers have signed on them for receiving payment of their salaries and wages. Govindaiah also has signed on them whenever he has received payments and he has admitted his signatures in them. These payment sheets show that Govindaiah has received the following payments in the following months.

1963	Total Salary	P.F. Deductions	Amount actually received
Ex. M. 4 Feb.	71.25	4.50	66.25
Ex. M. 5 March	71.25	Marked Absent	
Ex. M. 6 April		Name does not appear	
Ex. M. 7 May		Name does not appear	
Ex. M. 8 June	71.25	1.75	24.37 (11 days)
Ex. M. 9 July	71.25	4.50	66.75 (31 days)
Ex. M. 10 Aug.	71.25	4.50	66.75 (31 days)
Ex. M. 11 Sept.	71.25	4.50	66.75 (30 days)
Ex. M. 12 Oct.	71.25	2.50	38.87 18 days) (pay not taken)
Ex. M. 13 Nov.		Name does not appear	
Ex. M. 14 Dec.	71.25	1.00	15.08 (7 days) (not taken)

Govindaiah has signed against the payments received by him in Exts M.4, M.8, M.9, M.10 and M.11 and has admitted his signatures. He has not taken his salary as made out in Exts. M.12 and M.14. It can be seen from these payment sheets that Govindaiah was absent from duty on the days mentioned by the Management.

9. In this connection the statement made by Govindaiah (W.W.1) in his cross-examination deserves to be noted. He has stated:—

“It is true that I was not paid my salary in March 1963 as I did not work in February. Management did not pay me because I did not work. In April and May 1963 Management paid me my salary, though it has not been mentioned in Exts. M.6 and M.7. At times my signature was taken in the payment sheet and at times not. I do not remember if I was going for work in March and April 1963. It is true that in June 1963, I received Rs. 24 37 as my salary (Ex. M 8). I received less pay because I was on leave for 19 or 20 days. In July I received my full pay and Ex M 9 is my signature in the payment sheet. In August 1963, I received my full pay. Ex. M.10 is my signature in the payment sheet. In September 1963, I received my full pay and Ex. M.11 is my signature in the payment sheet. In October 1963, the Management offered me Rs. 38.37 as per Ex. M 12 and I did not take it (*Vide para 13*)”

10. When wage payment sheets have been regularly maintained by the Management, I can not believe Govindaiah when he says that at times, his signatures were not taken in the payment sheets. It is clear from these admissions made by Govindaiah and the documents maintained by the Management in the regular course of business that he (Govindaiah) was very irregular in attendance.

11. The trouble appears to have started when the Management offered Govindaiah Rs. 38 37 only as salary in October 1963. Govindaiah wrote the letter Ex. W.1 dated 14th November 1963 to the Head Office at Coimbatore complaining therein that an illegal deduction had been made in his salary for October 1963 and demanding full payment. He followed it up by another letter (Ex. W.2) dated 28th November 1963. On 29th November 1963, the Management sent him the reply (Ex. W. 3) stating that deductions in his salary for October 1963 had been made because he had remained absent without leave and asking him to attend office regularly, morning and evening, and sign in a register kept for that purpose. It appears that Govindaiah signed in the said register for a few days. Then, according to Govindaiah the register was kept back and he was not allowed to sign in it. According to the

Management, Govindaiah did not turn up at all from 7th December 1963 to sign in the register. So, the Management wrote to him the letter dated 9th April 1964 (posted on 18th April 1964) marked 'A' for identification. It is a notice issued to him by the Management to show cause why he should not be dismissed from service for his continued absence from 7th December 1963. Govindaiah has stated that he has not received any such notice. At the same time he has admitted his signature on the postal acknowledgement Ex. M.2. It shows that he has received one communication from the Management on 22nd April 1964. When questioned further, he has stated that he has handed it over to the First Party Union Secretary Mr. Vishakantaiah. The Union has not produced it. Then on 20th April 1964 Govindaiah has written the letter Ex. W.4 to the Management. He has said therein that he was attending the office regularly but the register was not being given to him for his signature. Then he has stated that in May and June 1964 he had not attended the office on medical advice, as he was ill. He has demanded his salary from November 1963 to May 1964 amounting to Rs. 519-75. On 20th June 1964 (posted on 22nd April 1964) the Management has written the letter Ex. M.3 (Same as Ex. W.5 to Govindaiah. Therein it has brought to the notice of Govindaiah its letter of 18th April 1964, acknowledged by him on 22nd April 1964 and said that he had not sent any reply thereto. It has concluded the letter saying that he had stayed away from work from 7th December 1963 and hence had ceased to have a lien on his job under it. The Management has reiterated all these facts in its reply dated 21st July 1964 to the Conciliation Officer (*Vide* Ex. M.1).

12. From the evidence discussed so far, it is clear that Govindaiah was highly irregular in his attendance. He has remained absent and has not received his salary in some months and received it partly in some months. He has not proved that he was absent by taking leave. Then in 1964 again, on his own admission he has remained absent in April and May. The letter acknowledged by him under Ex. M.2 has not been produced and according to the Management that letter is the document marked 'A'. No independent evidence of co workers also has been adduced by Govindaiah to show that he was attending office and the register was not being given to him for his signature. Then between 26th November 1963 (Ex. W.2) and 20th June 1964 (Ex. W.4) he has remained completely silent. He has not written to the Management that the local Branch Manager was not giving him the register for his signature, even though he was attending

office as per directions given in Ex. W. 3. All these facts and circumstances lead to only one inference, and that is, that Govindaiah himself has stayed away from work voluntarily. In these circumstances, the Management was justified in assuming that Govindaiah had abandoned his service. In view of this conclusion, I record my finding on the first issue in the negative and on the second issue in the affirmative.

13. In the result, it follows that Govindaiah is not entitled to any reliefs. Hence I make an Award as under:—

AWARD.

This Reference and the demands made by Govindaiah and the first party Union on his behalf, except the salary of 18 days in October 1963 and seven days in December 1963 totalling to Rs. 53.95 P, do stand rejected. The Management of the Second Party is directed to pay Govindaiah a sum of Rs. 53.95 P towards arrears of salary. I make no order as to costs.

(sd.) P. T. KADKOL,

*Presiding Officer,
Labour Court, Bangalore.*

" Copy "

P. T. KADKOL,
*Presiding Officer,
Labour Court, Bangalore.*

ORDER

Bangalore, dated 4th November 1967.

S.O. 2164.—WHEREAS by State Government Order No. LMA 502 LLD 65, dated 15th December 1965, the Industrial Dispute between the Workmen and the Management of M/s. B. L. S. (P) Ltd. Chamarajanagar, was referred to the Labour Court, Bangalore for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute :

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore, are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 502 LLD 65.]

By Order and in the name of the Governor of Mysore,

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G. G. PUROHIT, *Under Secretary*